

**United States District Court**  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

MARCO OMIAGBOPHILIPS

V.

DIGITAL FEDERAL CREDIT UNION

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CIVIL ACTION NO. 4:23CV240  
JUDGE MAZZANT/JUDGE JOHNSON

**MEMORANDUM ADOPTING REPORT AND  
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On February 8, 2024, the Magistrate Judge entered a Report and Recommendation (the “Report”) (Dkt. #18) that Defendant Digital Federal Credit Union’s Motion to Dismiss Plaintiff’s Amended Complaint Pursuant to Federal Rule of Civil Procedure 12(b)(6) (the “Motion to Dismiss”) (Dkt. #10) should be granted. The Magistrate Judge further recommended that Plaintiff be given leave to file an amended complaint. On February 15, 2024, Plaintiff Marco OmiagboPhilips filed an amended complaint (the “Second Amended Complaint”) (Dkt. #20), wherein he referenced the Report as grounds permitting such amendment (Dkt. #20 at p. 1).

Having received the Report of the United States Magistrate Judge, and no timely objections being filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge’s report as the findings and conclusions of the Court.

Accordingly, it is hereby **ORDERED** that the Motion to Dismiss (Dkt. #10) is **GRANTED**, and Plaintiff’s claims are **DISMISSED WITH PREJUDICE**.

**IT IS FURTHER ORDERED** that Plaintiff is **GRANTED** leave to amend his complaint.

As Plaintiff has already done so, the Second Amended Complaint (Dkt. #20) is deemed the live pleading in this matter.

**SIGNED this 1st day of March, 2024.**

  
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AMOS L. MAZZANT  
UNITED STATES DISTRICT JUDGE